

## Transgender & Transsexual

*The American College of Pediatricians urges educators and legislators to reject all policies that condition children to accept as normal a life of chemical and surgical impersonation of the opposite sex.*

*Facts – not ideology- determine reality.*

– "Gender Ideology Harms Children," American College of Pediatricians Report, April 6, 2016

In recent years the term transvestite, which always meant "cross-dressing," has been replaced with the current term "transgender<sup>1</sup>," which includes the bodily restructuring of males who surgically transition into females (MTF or trans-female) and females who transition into males (FTM or trans-male).

A person's belief that he or she is something they are not is, at best, a sign of confused thinking.<sup>2</sup>

The American Psychiatric Association (APA) defines transgender as an umbrella term for anyone whose gender identity, gender expression or behavior does not conform to the typical associations with the sex they were "assigned at birth" (APA's term). That term is a misnomer. The identity of males and females is not an assignment; it's a biological fact evident by the internal and external bodily structure of males and females. Gender is *not* a biological fact, *gender* is a psychological construct manifested by behavior.

No one is born with a gender. Everyone is born with a biological sex. Gender (an awareness and sense of oneself as male or female) is a sociological and psychological concept; not an objective biological one.<sup>2</sup>

But, if it were possible that sex were "assigned at birth," who "assigns" it – the obstetrician or the baby's father or mother, friends and relatives or population control officials? Of course not! Sexual identity is a fact determined by chromosomes – females have XX chromosomes and males have XY chromosomes.

Human sexuality is an objective biological binary trait: "XY" and "XX" are genetic markers of health – not genetic markers of a disorder.<sup>2</sup>

When in utero anomalies cause physical changes in bodily organs and the child's sex is not obvious at a glance, regardless of physical characteristics, XX chromosomes prove the child is female and XY chromosomes prove the child is male. Amputation or restructuring of body parts may change bodily appearances, but XX or XY chromosomes or brain structure do not change.

It is child abuse to condition children into believing a lifetime of chemical and surgical impersonation of the opposite sex is normal and healthful.

Children who use puberty blockers to impersonate the opposite sex will require cross-sex hormones in late adolescence. Cross-sex hormones (testosterone and estrogen) are associated with dangerous health risks including but not limited to high blood pressure, blood clots, stroke and cancer.<sup>2</sup>

<sup>1</sup> The term "transsexual," is another term referring to people whose gender identity is different from their biological sex. Trans means to cross over or change thoroughly. Biological males or females who identify as transsexual may behave or dress or express themselves as the opposite sex "or something else." APA does not define "something else."

<sup>2</sup> "Gender Ideology Harms Children," The American College of Pediatricians, April 6, 2016

## The Rise of “Trans” via “Gender Identity” Law in Massachusetts

The moral landscape of Massachusetts was drastically altered November 23, 2011 when the Massachusetts Senate and House of Representatives approved special protection for “gender identity.” They amended eight sections of Massachusetts’ General Laws. Section 1 now states:

“Gender identity shall mean a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person’s core identity, provided, however, that gender-related identity shall not be asserted for any improper purpose.”

Before the amendments took effect July 12, 2012, the Massachusetts Board of Elementary and Secondary Education revised its policy to include special protection for gender identity.

Also before those amendments, the Gay Lesbian and Straight Education Network had set up gay straight alliance clubs (GSAs) in thousands of high schools and middle schools throughout the country, where homosexual and transgender programs – the Day of Silence, Ally Week, Gay History Month, Transgender Awareness Day – affirm and promote LGBT<sup>1</sup> lifestyles, as GLSEN *directly organizes and trains teachers* to use LGBT-friendly methods in all curricula.

Of the 325 attending GLSEN’s April 5, 2014 Spring Conference in Boston, about two-thirds were students from middle, high, and elementary schools across Massachusetts. The 21 workshops<sup>2</sup> led by national and local experts followed GLSEN executive director Eliza Byard’s keynote speech that suggested a necessity for being “out and proud,” and instructed both *teachers and students* to publicly declare their homosexuality by “coming out of the closet.”

**Byard also said people can choose to be “he,” “she,” or “something else.”** So, (a) they can decide for themselves what/who they are, which pronoun identifies them, and (b) *everyone else needs to adjust to it*. In open session a middle-school student, identifying herself as bisexual and her sister as lesbian, helped organize a Day of Silence, and called a teacher “ignorant” for not allowing her to put up a Day of Silence poster before that evening’s parent conference.

**“Queering the Burbs.”** An LGBTQ activist who led a workshop distributed her “Queering the ‘Burbs’ since 1992” card, explaining that many city schools have GSAs, “but it’s different in the suburbs, likely because parents are more attentive to what’s happening in the schools.”

**“Answers to Your Questions about Transgender People, Gender Identity, and Gender Expression,”** an American Psychological Association (APA) pamphlet, was distributed at the Boston conference and is distributed in schools across the country, as well.

**“Welcoming our Trans Family and Friends”** is a 60-page booklet written and distributed in schools by PFLAG (Parents, Families, and Friends of Lesbians and Gays). Its “Tips when Working with Schools” instructs readers to “Request the Staff Receive Training About Transgender and Gender Non-conforming Identities.” Will PFLAG or GLSEN do the training?

<sup>1</sup> NOTE: LGBT means lesbian, gay, bisexual, transgender. Current pressure focuses on the promotion of transgender. A Massachusetts’ state-funded LGBTQ Youth Commission works directly in schools to push LGBT programs statewide.

<sup>2</sup> Workshop titles included the following: When a Teacher Makes a Gender Transition; Teaching “Out;” Supporting Transgender Youth in Schools; Queering the Classroom: Providing a Safe Learning Environment for All; Coming Out to Parents; and Changing the Game: the GLSEN Sports Project (for “queering” (their word) high school sports).

## **Trans ID Gets Special Civil Rights in Federal Executive Orders & Regulations**

Presidential Executive Order 13672 of July 21, 2014 added “gender identity” to the uniform policy for Federal Government prohibition against discrimination in two previous documents – EO 11478 Equal Employment Opportunity in the Federal Government, and EO 11246 Equal Employment Opportunity. Its regulations by the Secretary of Labor took effect April 8, 2015.

The declaration in EO 13672 that “sexual orientation” and “gender identity” are two separate categories in EEOC cases was picked up and mimicked by the U.S. Department of Justice Civil Rights Division and the U.S. Department of Education Office for Civil Rights.

On May 13, 2016 the civil rights offices of the DOJ and DOE sent a joint “Dear Colleague” letter to schools across the country, explaining how Title IX of the Education Amendments of 1972 is affected by the newly created nondiscriminatory status for transgender students. The DOJ and DOE offices determined that their joint letter is *significant guidance* for schools to create transgender policies for the use of intimate facilities – toilets, locker rooms, showers, etc.

Three of the letter’s eight pages are dedicated to footnotes that are filled with documentation vital to a better understanding of the current situation. Consider the following:

**Footnote 1** explains the religious school exemption as follows:

An educational institution that is controlled by a religious organization is exempt from Title IX to the extent that compliance would not be consistent with the religious tenets of such organization.

**Footnote 6** explains that requiring medical or surgical proof of an individual’s gender identity is prohibited. Therefore, access to facilities cannot be based on biological identity, identity on a birth certificate, or physiological change. It states:

An agency may not condition access to facilities – or to other terms, conditions, or privileges of employment – on the completion of certain medical steps that the agency itself has unilaterally determined will somehow prove the bona fides of the individual’s gender identity.

**Footnote 8** cites court decisions guaranteeing transgender rights above the rights of others.

In 2002 the 8<sup>th</sup> Circuit rejected a claim that allowing a transgender woman (male to female) “merely [to be] present in the women’s faculty restroom” created a hostile environment. In another case the defendant’s claim that “other women might object to [the plaintiff’s] restroom use” was “wholly irrelevant”. A 1985 decision was that “mere negative attitudes or fear ... are not permissible bases for” government action.

**Footnote 9** defines actions that may be considered harassment.

*School:* Peers calling a trans-girl (male to female) by her previous name, sharing pre-transition pictures of her, asking questions about her anatomy and sexuality

*On-the-job:* Failure of employers or employees to use the correct name or pronoun

**Footnote 17** cites Title IX control over athletics, allowing transgender identity to prevail.

Where an athletic Association is covered by Title IX, a school’s obligations regarding transgender athletes apply with equal force to the association.

**Footnote 23** refers to a July 24, 2013 DOJ case about overnight and housing accommodations.

Access to single-sex overnight events would be provided consistent with students’ gender identity, but students could request access to private facilities. A school must allow transgender students to access housing consistent with their gender identity and may not require transgender students to stay in single occupancy accommodations or disclose personal information, if such is not required of other students.

## Trans-male Student Case in Court

*G.G. is a transgender boy now in his junior year at Gloucester High School. G.G.'s birth-assigned sex, or so-called "biological sex," is female, but G.G.'s gender identity is male. G.G. has been diagnosed with gender dysphoria, a medical condition characterized by clinically significant distress caused by incongruence between a person's gender identity and the person's birth-assigned sex.*

– U. S. 4<sup>th</sup> District Court of Appeals, April 19, 2016

In August 2014 as he enrolled for his sophomore year, G.G. and his mother told school officials that G.G. is a transgender boy (female to male). At first, he used the nurse's restroom, but soon requested use of the boys' restroom, which he used for seven weeks, until community response caused the Gloucester County School Board in Virginia to pass a "transgender restroom policy" that complies with Title IX requirements for transgender accommodations.

On December 9, 2014 the Board voted 6-1 to adopt the following policy that satisfies federal nondiscrimination requirements. G.G. rejected the policy, which states:

It shall be the practice of the GCPS to provide male and female restroom and locker room facilities in its schools, and the use of said facilities shall be limited to the corresponding biological genders, and students with gender identity issues shall be provided an alternative appropriate private facility.

Simultaneously, the Board announced the following school restroom privacy updates:

Add or expand partitions between urinals in male restrooms;  
Add privacy strips to all doors of all stalls in all restrooms; and  
Construct single-stall unisex restrooms available to all students.

G.G. alleges he cannot use the new unisex restrooms because they "make him feel even more stigmatized .... Being required to use the separate restrooms sets him apart from his peers, and serves as a daily reminder that the school views him as 'different.' ... His social transition is undermined and he experiences 'severe and persistent emotional and social harms.'"

Represented by the ACLU, G.G. sued the Board June 11, 2015, for an injunction to allow him use of the boys' facility, claiming impermissible discrimination in violation of Title IX.

The district court denied the injunction, ruling that requiring G.G. to use the unisex restroom during the Appeals process was not unduly burdensome and would cause less harm than requiring other students to be made uncomfortable by G.G.'s presence in the boys' restroom.

April 19, 2016 the 4<sup>th</sup> District Court of Appeals ruled: "The judgment of the district court is REVERSED IN PART, VACATED IN PART, AND REMANDED." So, the case is not over yet.

**Conclusion:** While the GCPS policy complies with Title IX, G.G. is unhappy and dissatisfied, claiming separate facilities cause him to feel "different." He requested an injunction against the policy while the Title IX question is remanded to district court, but the injunction was denied.

<sup>1</sup> Dissenting, Judge Niemeyer stated: "Strikingly, the majority now reverses the district court's ruling, without any supporting case law, and concludes that when Title IX and its regulations provide for separate living facilities, restrooms, locker rooms, and shower facilities on the basis of sex, the statute's and regulations' use of the term 'sex' means a person's gender identity, not the person's biological status as male or female.... [which relies] entirely on a 2015 letter sent by the Department of Education's Office for Civil Rights to G.G., [that states] When a school elects to separate or treat students differently on the basis of sex [when providing restrooms, locker rooms, shower facilities, housing, athletic teams, and single-sex classes], a school generally must treat transgender students consistent with their gender identity. Accepting that new definition of the statutory term 'sex,' the majority's opinion, for the first time ever, holds that a public high school may NOT provide separate restrooms and locker rooms on the basis of biological sex." (Emphasis added)

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